IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

WP(C).No. 29450 of 2006(E)

PETITIONERS:

1. A.ANIRUDHAN, H.S.S.T.(COMMERCE),
   H.S.S.MUTHUKULAM, ALAPPUZHA.

2. MARY SHINY MENDEZ, H.S.S.T. (C0MMERCE)
   JUNIOR, ST.AUGUSTINE H.S.S. AROOR.

3. LUITHA.V.A. H.S.S.T. COMMERCE,
   ST.SEBASTIAN H.S.S. PALLURUTHY.

4. EDWARD FRANCIS E.J. H.S.S.T.COMMERCE,
   JUNIOR, ST.SEBASTIAN H.S.S. PALLURUTHY.

5. SHERLY.T. H.S.S.T. COMMERCE,
   ARAVUKAD H.S.S. PUNNAPPRA, ALAPPUZHA.

6. SIJI ABRAHAM, H.S.S.T.COMMERCE JUNIOR,
   M.K.M. HIGHER SECONDARY SCHOOL, PIRAVOM.

7. RENJU THOMAS, H.S.S.T. COMMERCE,
   ST.AUGUSTINE H.S.S., KALLOORKKAD.

BY ADV. SRI.BENOY THOMAS
SRI.PAULSON THOMAS

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
   SECRETARY, GENERAL EDUCATION DEPARTMENT,
   THIRUVANANTHAPURAM.

2. THE DIRECTOR OF HIGHER EDUCATION,
   DIRECTORATE OF HIGHER SECONDARY EDUCATION,
   HOUSING BOARD BUILDING, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT.M.R.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE G.O.(Rt) NO.1340/2006/G.Edn. DATED 29.3.2006 OF THE 1ST PETITIONER.

EXT.P1(a):COPY OF THE G.O.(Rt)NO.716/2006/G.Edn. DATED17.2.2005 TO THE 2ND PETITIONER.

EXT.P1(b):COPY OF THE G.O.(Rt)NO.1021/2006/G.Edn. DATED 7.3.2006 TO THE 3RD PETITIONER.

EXT.P1(c):COPY OF THE G.O.(Rt) NO.1084/2006 G.Edn. DATED10.3.2006 TO THE 4TH PETITIONER.

EXT.P1(d):COPY OF THE G.O.(Rt) NO.3131/2005/G.Edn. DATED 8.1.2004 TO THE 6TH PETITIONER.

EXT.P1(e):COPY OF THE G.O.(Rt) NO.135/2004/G.Edn. DATED 8.1.2004 OF THE 6TH PETITIONER.

EXT.P1(f):COPY OF THE G.O.(Rt) NO.5619/2005/G.Edn. DATED 1.12.2005 TO THE 7TH PETITIONER.

EXT.P2: COPY OF THE NOTIFICATION NO.G.O.(P)217/05/FIN. DATED 11.5.2005.

EXT.P3: COPY OF THE CIRCULAR NO.38/2002 DATED 3.6.2002.

EXT.P4: COPY OF THE G.O(MS) NO.217/99/G.Edn. DATED 6.9.1999.

EXT.P5: COPY OF THE REPRESENTATION SUBMITTED BY SREEKUMAR DATED 25.7.2005 BEFORE THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT.

EXT.P6: COPY OF THE LETTER NO.46617/T1/2005/GEN.EDN. DATED 19.11.2005 ISSUED BY THE 1ST RESPONDENT.

EXT.P7: COPY OF APPROVAL ORDER OF THE 1ST PETITIONER DATED 26.3.2003 ISSUED BY THE 2ND RESPONDENT.

EXT.P7(a):COPY OF APPROVAL ORDER OF THE 2ND PETITIONER DATED 2.9.2003 ISSUED BY THE 2ND RESPONDENT.

EXT.P7(b):COPY OF THE APPROVAL ORDER OF THE PETITIONERS 3 & 4 DATED 2.3.2004 ISSUED BY 2ND RESPONDENT.

EXT.P7(c):COPY OF APPROVAL ORDER OF PETITIONER NO.5 DATED 28.7.2002 ISSUED BY THE 2ND RESPONDENT.

EXT.P7(d):COPY OF APPROVAL ORDER OF PETITIONER NO.6 DATED 20.7.2003 ISSUED BY THE 2ND RESPONDENT.

EXT.P7(e):COPY OF APPROVAL ORDER OF PETITIONER NO.7 DATED 30.7.2004 ISSUED BY THE 2ND RESPONDENT.

EXT.P8: COPY OF THE JUDGMENT IN W.P.(C) 26782/05 DATED 22.2.2006.

EXT.P9: COPY OF THE JUDGMENT IN W.P.(C) 10469/2006 DATED 8.12.2006

EXT.P10:COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS 3 AND 4 BEFORE THE 1ST RESPONDENT DATED 10.1.2007.

TRUE COPY

P.A.TO JUDGE

dvs

K.M.JOSEPH, J.

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WP.(C) No.29450 OF 2006

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Dated this the 14th day of February, 2007

JUDGMENT

Case of the petitioners in brief is as follows:

Petitioners are approved Higher Secondary School Teachers. They have availed leave without allowance for doing B.Ed. Training course. They rely on the third proviso to Rule 33(b)(2) of Part I KSR to the effect that it will count for increment. Ext.P2 Circular is also relied on. Ext.P6 is an order passed in respect of another person similarly situated. But it is submitted that it is quashed by Ext.P9 judgment.

2. Heard Government Pleader also. There is an amendment to the Rule with effect from 11.5.2005.

There will be a direction to the first respondent to consider the case of petitioners 1, 2, 5, 6 and 7 in accordance with law taking note of Exts. P8 and P9 judgments within a period of two months from the date of receipt of a copy of this judgment.

In respect of petitioners 3 and 4, admittedly they have applied for leave after the amendment. They have a case that it is open to the

Government however to grant the benefit to them also as per the second proviso to Rule 33(b)(2). They have filed Ext.P10.

Accordingly, there will be a further direction to the first respondent to consider and take a decision on Ext.P10 in accordance with law. I have not expressed any view on the merits of their contentions.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.